

Facsimile Filing Standards for Ohio Courts

Pursuant to Superintendence Rule 27, the Supreme Court of Ohio Advisory Committee on Technology and the Courts is authorized to adopt technology standards. The following Facsimile Filing Standards were submitted to the Supreme Court of Ohio on October 10, 2003.

On November 3, 2003, the Supreme Court of Ohio approved the following Facsimile Filing Standards, effective May 1, 2004.

The full text of the Facsimile Filing Standards is available at http://www.sconet.state.oh.us/ACTC/working_doc/fax_standards.pdf, and paper copies can be requested by calling the Technology Resources Section of the Supreme Court of Ohio at (800) 826-9010.

Facsimile Filing Standards for Ohio Courts

These Facsimile Filing Standards are adopted November 3, 2003 pursuant to Superintendence Rule 27, effective May 1, 2004.

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1.00 Definitions

1.01 “Facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.

1.02 “Facsimile machine” means a machine that can send and receive a facsimile transmission either as a stand alone device or as part of a computer system.

[Commentary: E-MAILING OF FILING IS NOT CONSIDERED PART OF FAX FILING. IT WILL BE ADDRESSED IN ELECTRONIC FILING STANDARDS.]

1.03 “Fax” is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

1.04 “Source document” means the document transmitted to the court by facsimile machine/system.

1.05 “Effective original document” means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court’s file.

1.06 “Effective date and time of filing” means the date and time that a facsimile filing is accepted by the Clerk of court for filing.

2.00 Applicability of local rules.

2.01 All local rules of court adopted to permit filing of facsimile documents will be deemed to permit filing of all pleadings, motions, exhibits and other documents that may be filed with the Clerk of Courts. The local rules must specify any exceptions to this permission.

[Commentary: There is not a mandate that requires a court to accept filings by FAX. Only those Courts, that choose to accept faxes, need to create local rules that meet the minimum standards set. We also created a "model rule" for those courts that are looking for more guidance. Clerks who serve in more than one location should specify all exceptions to fax filing.]

2.02 All local rules of court for facsimile filing SHALL place a requirement that the filer provide a cover page containing the following:

- (I) the caption of the case;
- (II) the case number;
- (III) the assigned judge;
- (IV) a description of the document being filed;
- (V) the date of transmission;
- (VI) the transmitting fax number; and
- (VII) an indication of the number of pages included in the transmission, including the cover page.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, it may be deposited in the case jacket but need not be entered into the Case Docket and may be considered to be a nullity and thereby stricken from the record.

3.00 Place of filing

3.01 All local rules of court must specify the telephone number of the facsimile machine receiving transmission. The facsimile machine must have a dedicated telephone line and must be available to receive facsimile transmissions on the basis of 24 hours per day 7 days per week.

4.00 Time of filing

4.01 All local rules of court must specify that the date and time of ~~filing~~ receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission.

4.02 All local rules of court must permit receipt of facsimile transmissions on the basis of 24 hours per day 7 days per week.

4.03 All local rules of court may specify the effective date and time of filing for all documents received outside of the normal business hours of the office of the Clerk of Court and queue them in order of their receipt as documented by the date and time imprinted by the receiving facsimile machine.

4.04 The Clerk of Court may but need not acknowledge receipt of a facsimile transmission.

[Commentary: It was the intention of the committee that if for any reason the fax is not received, the burden of validating or confirming the receipt of the complete fax transmission is on the sending party. Most Fax machines are equipped with the

capacity to report back to the sending party, a validation of transmission or a “failed transmission “ report.]

5.00 Filing of originals

5.01 All local rules of court must provide that documents filed by facsimile are accepted as the effective original document in the court file. The source document need not be filed. However, the sending party must maintain possession of the source document and make them available for inspection by the court upon request.

[Commentary: The Standards Subcommittee recommends that local rules address the issue of retention of the source document until opportunities for the post judgment relief are exhausted.]

5.02 Documents shall be filed with a signature or notation “/s/” followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.

5.03 A local rule of court may limit the number of pages that it will accept by facsimile transmission. If the document to be transmitted exceeds the page limit established by local rule, the original must be filed. All local rules of court **may** permit exhibits that cannot be transmitted accurately or are lengthy to be replaced by an insert page describing the exhibit. The local rules may provide that the original of such an exhibit may be filed within a specified time subsequent to the facsimile filing.

5.04 A local rule may be adopted that is not inconsistent with any standard regarding the filing of an original source document.

[Commentary: The local rule should address and define what it felt was reasonable page limit. A filing that exceeds the page limit detailed in the local rule would either require filing through other allowable channels. or as is the case with Exhibits in section 6.01 of the Model rule; if the filing has exhibit(s) that cause it to exceed the page limit, then, in the fax filing the exhibit (or other lengthy document), would be "replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit." This allows the local court to facilitate filing by allowing faxes without placing an unusual burden on the clerk's office.]

6.00 Filing Fees

6.01 All local rules of court must specify the effective methods of paying fees and costs for any pleading or other document requiring such a fees or costs. The local rules may provide that the Clerk of Court does not have to accept a facsimile transmission filing unless the acceptable method of payment has been paid or arranged to be paid. Local rules of court may not require premium fee schedules for facsimile filings.

[Commentary: In terms of costs associated with acceptance of fax filings, some clerks have expressed concern over related costs. In the case of FAX filing, the only substantive difference between a single original coming in over the counter and one coming in via FAX is the presentation. Section 6 specifically prohibits the charging of fees above and beyond the \$3.00/\$10.00 fee allowed for court technology, for accepting a FAX filing. However, if it's customary for a clerk's office to charge for copies (including service copies) or additional charges for administrative costs, mailing /postage costs, etc. ... then those fees would still apply regardless of how the original filing came in. Those additional fees would most likely fall under a separate local rule regarding fees that your court would already have in place.]

7.00 Effective Date of Local Rules

7.01 All local rules of court will become effective upon approval by the Supreme Court Committee on Technology and the Courts.

8.00 Time to Compliance

8.01 Courts which choose to offer facsimile filing shall submit local rules for approval by the Supreme Court of Ohio. Courts offering facsimile filing at the time this standard is adopted shall submit their local rule for approval within six months of the adoption of this standard.

APPENDIX

Model Facsimile Filing Rule for Ohio Courts

The Model Facsimile Rule for Ohio Courts is included for illustration. This form is expressly declared as sufficient to meet the requirements of the Facsimile Filing Standards for Ohio Courts. Departures from this form shall not void a local rule that is otherwise sufficient to meet the requirements of the aforesaid Facsimile Filing Standards for Ohio Courts.

STANDARDS SUBCOMMITTEE OF THE SUPREME COURT ADVISORY COMMITTEE ON TECHNOLOGY AND THE COURTS

MODEL FACSIMILE FILING RULE FOR OHIO COURTS

The provisions of this local rule are adopted under [Civ.R. 5(E)]
[Civ.R. 73(J)] [Crim.R.12(B)] [Juv.R. 8] [App.R. 13(A)].

Pleadings and other papers may be filed with the Clerk of Courts
by facsimile transmission to [area code and number of receiving machine]
subject to the following conditions:

APPLICABILITY

- 1.01** These rules apply to [civil], [criminal], [small claims], [probate],
[juvenile], [appellate] and [domestic relations], proceedings in the
[name of court].
- 1.02** These rules do not apply to [civil], [criminal], [small claims],
[probate], [juvenile], [appellate] and [domestic relations],
proceedings. In these proceedings no facsimile transmission of
documents will be accepted.
- 1.03** The following documents will not be accepted for fax filing:
[original wills and codicils] [cognovit promissory notes], [insert
other examples]

ORIGINAL FILING

- 2.01** A document filed by fax shall be accepted as the effective original
filing. The person making a fax filing need not file any source
document with the Clerk of Court but must, however, maintain in his
or her records and have available for production on request by the
court the source document filed by fax, with original signatures as
otherwise required under the applicable rules, together with the
source copy of the facsimile cover sheet used for the subject filing.

- 2.02** The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules, unless the context requires otherwise:

- 3.01** A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.
- 3.02** A “facsimile machine” means a machine that can send and receive a facsimile transmission.
- 3.03** “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

- 4.01** The person filing a document by fax shall also provide therewith a cover page containing the following information: [See appendix for sample cover page form.]
- (I) the name of the court;
 - (II) the title of the case;
 - (III) the case number;
 - (IV) the assigned judge;
 - (V) the title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss) ;
 - (VI) the date of transmission;
 - (VII) the transmitting fax number;

(VIII) an indication of the number of pages included in the transmission, including the cover page;

(IX) if a judge or case number has not been assigned, state that fact on the cover page;

(X) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and

(XI) if applicable, a statement explaining how costs are being submitted.

4.02 If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

(I) enter the document in the Case Docket and file the document;
or

(II) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.

4.03 The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

SIGNATURE

5.01 A party who wishes to file a signed source document by fax shall either:

(I) fax a copy of the signed source document; or

(II) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.

- 5.02** A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

[Commentary: 5.01 (II) addresses those instances where the fax transmission is generated by the sending party's computer and therefore the document is not printed and capable of being signed prior to transmission.]

EXHIBITS

- 6.01** Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.
- 6.02** Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample exhibit cover sheet.]

TIME OF FILING

PLEASE SELECT ONE OF THE FOLLOWING TWO OPTIONS FOR 7.01	
(OPTION I)	
7.01	Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk of Courts as of the date and time automatically imprinted by the fax machine of the Clerk of Courts. The fax machine will be available to receive facsimile filings on the basis of 24 hours per day seven days per week including holidays.
(OPTION II)	
7.01	Subject to the provisions of these rules, all documents sent by fax and received by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. However, the fax machine will be available to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays.

- 7.02** Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.
- 7.03** The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.
- 7.04** The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

FEES AND COSTS

- 8.01** No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Court cost and fees may be paid by credit or debit cards or through an escrow account established with the Clerk. The forms necessary for the authorization of payment by credit card or escrow account shall be available at the Clerk's office during normal business hours [and are accessible on-line at _____]. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed. [See appendix for sample credit card payment form.]

[Commentary: Information furnished for authorization of payment by credit/debit card shall not be part of the case file.]

8.02 No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

- 9.01** Facsimile filings shall not exceed _____ pages in length. .
The filer shall not transmit service copies by facsimile.

[Commentary: The local rule should address and define what it felt to be a reasonable page limit. The subcommittee also recommends that service copies not be sent by fax. However, this is optional, and at the discretion of the local court.]

EFFECTIVE DATE

- 10.01** These local rules shall be effective [insert date], and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

[Commentary: Facsimile filing standards in the model rule contemplate the facsimile transmission of documents to a court by electronic means. The court receiving the facsimile transmission will maintain its equipment to reconstruct a paper copy version of the source document to serve as the original document. These standards should be differentiated from other types of electronic filing, for which other standards will apply.]

APPENDIX

- 1. Sample Facsimile Filing Cover Page**
- 2. Sample Exhibit Cover Page**
- 3. Sample Credit Card Payment Form**

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____

SUPREME COURT
REGISTRATION NO. (if applicable): _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO. _____

FAX NUMBER: _____

E-MAIL ADDRESS (if available): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER*: _____

TITLE OF THE DOCUMENT: _____

JUDGE*: _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:

*If a judge or case number has not been assigned, please state that fact in the space provided.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

JOHN SMITH, Plaintiff,

v.

Case No.: 1234567

BILL JONES, Defendant.

Judge _____ *(in the alternative a
notation here that the case is not yet assigned)*

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"
TO
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule XX.X.

Respectfully Submitted,

Attorney Name (Sup. Cert. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for defendant Bill Jones, [name and address of recipient].

Attorney Name
Counsel for Plaintiff John Smith

CREDIT / DEBIT CARD AUTHORIZATION FORM

To: Clerk, _____ County Common Pleas Court _____ Division

Fax No: _____

Regarding (if applicable):

Case Name: _____

Case Number: _____

Dear Clerk's Office Representative:

Please charge my credit / debit card in the amount of \$ _____ in payment of fees for the following court costs/service(s): [Identify document to be filed or other service to be performed by the Clerk's Office for which a fee is assessed.]

Circle One:

MasterCard

Visa

Credit / Debit Card Number: _____

Expiration Date: _____

Name of Cardholder: _____

Billing Address: _____

Telephone No.: _____

Fax No.: _____

Cardholder Signature: _____

Date: _____

Name & Telephone No. of Person Submitting This form: _____